IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 15417 of 2004

Between:

Lt. Col. Rambabu Paleti, S/o Subba Rao,
aged 47 years, presently working in 5133 ASC Bn.

Shivmandir,Near Suilguri, West Bengal.

..... PETITIONER

AND

1 Station Commander, Station Head Quarters Cell, Secunderabad.
2 Adm. Commandant, Station Head Quarters Cell, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or Writs, Order or Direction, declaring the order dt. 23-4-2004 in Lr.No. 118Offr/Q (CE) and the order dt. 28-7-2004 in Lr.No. 105/B/Q (NCC) on the file of the Respondents as illegal, arbitrary and contrary to Para 110 of Special Army Orders for provision of Accommodation & Allied Services for Serving Officers vide S.A.O. No. 10/S/86 by directing the Respondents to permit the Petitioner to retain the family accommodation at last duty station viz 57-A, Malhotra Enclave, Secunderabad till allotment of separated family accommodation; Award costs.

Counsel for the Petitioner: MR.N.SRIDHAR REDDY

Counsel for the Respondent No.: MR.A.RAJASHEKAR REDDY (SC FOR CG)

The Court made the following:

ORDER:

The petitioner's family is in occupation of one of the quarters of the respondents Organization. The petitioner was allotted the said quarter while he was working at Secunderabad. Now he is transferred to Modified Field Service Area, near Silguri, West Bengal. The petitioner wanted to retain his family at Secunderabad on the ground that his daughter is studying here. The respondents appear to have permitted the petitioner to retain the quarter till 15th May 2004. Subsequently, the respondents issued a show cause notice informing him that unless he vacates the quarter, damages will be collected. The petitioner, therefore, approached this Court through this writ petition stating that he is entitled to retain the quarter through out his service.

2. The respondents are contending that there are priorities in allotment of quarters. The priority for allotment of separated family accommodation to officers posted to field service area is Priority-I, and in the case of officers posted to modified field area is Priority-III.Since the petitioner comes within the Priority-III, he will be entitled for allotment of quarter if his turn comes after completion of allotment of separated family accommodation to officers who are in Priority II and I.

3. In ***M.C.Gautam v. Union of India***, the Division Bench of Delhi High Court held that there should not be interference in policy decisions regarding the allotment of quarters. In this matter the rules provided that the priority shall be given to the persons who are waiting in Priority- II and I. But as per the rules, the petitioner can make a request to the 1st respondent to provide an alternative accommodation if available in the quarters of the respondents Organization or a hired accommodation. In the event of such representation by the petitioner, it is the duty of the 1st respondent to verify whether the official accommodation is available, and if it is not available, to secure a private accommodation to the

petitioner in terms of Para 67 of SAO 10/S/86.

4. In the light of the above circumstances, the petitioner is directed to make a representation to the 1st respondent for providing an alternative accommodation either official or hired, and on receipt of such representation, the 1st respondent shall take appropriate steps regarding the request of the petitioner and provide such alternative accommodation, in terms of Para-67 of SAO 10/S/86 and other relevant provisions to enable the petitioner to shift his family.

The Writ Petition is, accordingly, disposed of.

Note:

Issue CC by 07.09.2004

B/o

dsr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To:

1. The Station Commander,

Station Head Quarters Cell,

Secunderabad

2. The Adm.Commandant,

Station Head quarters Cell,

Secunderabad

3. Two CD copies.